

1 RUTAN & TUCKER, LLP
2 Philip D. Kohn (State Bar No. 90158)
3 City Attorney, City of Laguna Beach
4 pkohn@rutan.com
5 611 Anton Boulevard, Fourteenth Floor
6 Costa Mesa, California 92626-1931
7 Telephone: (714) 641-5100
8 Facsimile: (714) 546-9035
9
10 Attorneys for Defendants
11 CITY OF LAGUNA BEACH, et al.

JS-6

11 LEONARD J. PORTO III,
12 Plaintiff,

Case No. SACV 08-547 DOC (MLGx)

13 v.
14 CITY OF LAGUNA BEACH, CITY OF
15 LAGUNA BEACH MARINE SAFETY
16 DEPARTMENT, MARINE SAFETY
17 CHIEF MARK KLOSTERMAN,
18 LIFEGUARD TRAVIS LOWREY,
19 LIFEGUARD THOMAS McGERVEY,
20 LIFEGUARD MIKE SCOTT, CITY OF
21 LAGUNA BEACH POLICE
22 DEPARTMENT, POLICE OFFICER
23 ALFRED COLLAZO, POLICE
24 OFFICER RYAN DOMINGUEZ,
25 POLICE OFFICER MICHAEL
26 DONOHUE, POLICE OFFICER ZACH
27 MARTINEZ, and DOES 1 through 10,
28 Inclusive,

**ORDER FOR DISMISSAL AND
JUDGMENT IN FAVOR OF
DEFENDANTS**

Defendants.

24 Plaintiff Leonard J. Porto III (“Porto”) filed his Complaint for Damages and
25 Injunctive Relief on May 14, 2008, naming the City of Laguna Beach (“City”) as the
26 only Defendant. The City filed an Answer denying the material allegations.

27 Pursuant to leave granted by this Court, Porto later filed a First Amended
28 Complaint for Damages, Declaratory Relief and Injunctive Relief on September 22,

1 2008, naming the City and several City departments and employees as Defendants
2 (collectively, "City Defendants"). The City Defendants filed a Motion to Dismiss
3 Action under Fed. Rule Civ. P. 12(b)(6). On November 19, 2008, this Court entered
4 a Minute Order granting the City Defendants' motion.

5 On December 9, 2008, Porto filed a Second Amended Complaint for
6 Damages and Injunctive Relief against the City Defendants. The City Defendants
7 filed a Motion to Dismiss Action under Fed. Rule Civ. P. 12(b)(6). On January 20,
8 2009, this Court entered a Minute Order granting in part and denying in part the City
9 Defendants' motion. The motion was granted as to all claims for relief against all
10 the City Defendants with the exception of the 42 U.S.C. § 1983 claim of excessive
11 force in violation of the Fourth Amendment alleged against Defendant Police
12 Officer Michael Donohue ("Donohue") in his individual capacity.

13 Donohue filed an Answer denying the material allegations. Donohue later
14 filed a Motion for Summary Judgment. On April 20, 2009, this Court filed an Order
15 granting the motion.

16 All issues in this action having been fully considered, and decisions on those
17 issues having been duly rendered,

18 IT IS HEREBY ORDERED AND ADJUDGED that Porto taking nothing by
19 his action, that the action be dismissed with prejudice and judgment entered on the
20 merits in favor of the City Defendants, and each of them, and that the City
21 Defendants recover their costs, as determined by the Clerk.

22
23 DATED: April 21, 2009 _____

David O. Carter _____

24 HON. DAVID O. CARTER
25 United States District Judge

26 Prepared, served and lodged by:

27
28 _____
Philip D. Kohn
Attorneys for Defendants